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September 7, 2004

Paul C. Besozzi
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VIA FEDEX

K. David Wadell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-8359

**Re: Docket No. 04-00211 – Amending Public Pay Telephone Rules – Tennessee
Regulatory Authority Rule 1220-4-2.43 Through .54**

Dear Executive Secretary Wadell:

Enclosed for filing are an original and fourteen (14) copies of the “Comments Of Evercom Systems, Inc.” being submitted in the referenced Docket.

An extra copy of the filing is enclosed to be stamped “filed” or “received” and returned in the enclosed stamped envelope

Should there be any questions in this matter, please contact the undersigned counsel.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Paul C. Besozzi', with a long horizontal line extending from the end of the signature.

Paul C. Besozzi

Enclosures

cc Colleen Dziuban

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

IN RE:

**Amending Public Pay Telephone Rules -
Tennessee Regulatory Authority Rule
1220-4-2-.43 through .54**

Docket No. 04-00211

COMMENTS OF EVERCOM SYSTEMS, INC.

Evercom Systems, Inc. ("ESI"), acting through counsel and in accordance with the Staff Memorandum, dated July 16, 2004 and the "Notice of Rulemaking Hearing" issued by the Tennessee Regulatory Authority ("TRA" or "Authority") on August 4, 2004 in the captioned Docket, hereby files its Comments regarding the proposed revised pay telephone rules, including a permanent rate cap for inmate local collect calls.¹

I. BACKGROUND

1. ESI is authorized by the TRA to provide inmate telephone services throughout the State. ESI is currently providing such services at over fifty (50) county and municipal correctional facilities throughout the State. Therefore, ESI has a direct interest in the outcome of the

¹ On July 9, 2004, ESI submitted Comments in Docket No. 04-00166 in connection with the interim revised local collect call rate cap for inmate service providers. ESI respectfully requests that the substance of those Comments also be incorporated in this Docket.

Authority's decisions in this proceeding because its rights and duties could be affected or determined by the Authority's decisions herein.

2. ESI also provides inmate calling services in forty three (43) other jurisdictions. As a result it is familiar with the rate caps imposed on local collect calls throughout almost all of the United States. Therefore, it is based on such first hand experience that ESI provides these further Comments.

II. THE AUTHORITY SHOULD RECOGNIZE THE DIFFERENCES IN CONFINEMENT FACILITIES

3. In its previously-filed comments in Docket No. 04-00166, Evercom urged the Commission to set an interim rate cap for local collect calls at a maximum flat rate of \$1.50 per call, no matter what the duration, pending the Commission's further analysis of this issue. Even with that adjustment, the cost of a local collect inmate call in Tennessee would remain among the lowest in the entire country. However, the Commission approved that interim rate and has now sought, as part of this Docket, comments on its proposal to include that rate cap in a broader amendment of its pay telephone rules.

4. Evercom provides services principally at county and municipal confinement facilities. At these locations the bulk of the calls made are local collect calls. As reflected in its prior comments, and by others offering their views in this proceeding, the provision of inmate calling services requires costly, specialized equipment necessary to allow the monitoring, recording and control of inmate calls. At the smaller confinement facilities, the burden of providing inmate calling services can be even greater because, although the security requirements associated with inmate calling are the same, the traffic levels are substantially less than at the much larger state

and federal confinement facilities. Moreover, at those larger facilities, there is a much higher percentage of intrastate and interstate toll calling, which are subject to a higher rate cap, allowing a more equitable recovery of costs.

5. The Commission must take this factual distinction into consideration in setting any final local collect call rate cap for inmates. A “one-size-fits all” rate cap does not reflect the real differences that exist between such facilities. At large State and Federal facilities, where many more calls are long distance in nature, they provide a revenue stream that is largely not available to local and county jails. Capping local collect calls at the same rate, no matter what the size or revenue mix for the facility, creates the risk that, as equipment costs and related costs inevitably rise, smaller facilities will be required to limit, cutback or even eliminate service. Certainly, it could affect the number of service providers interested in bidding on contracts to serve these installations, thereby giving confinement facility administrators less options to obtain the services.

6. For all these reasons, the Commission should consider separate rates for local collect calls at smaller, local and municipal confinement facilities. A rate cap of \$2.50 for a local collect call of unlimited duration from a county or city confinement facility would be imminently reasonable. On a 30 minute call, the \$2.50 cap would mean that the effective rate to the inmate would be about 8.3 cents per minute.

III. CONCLUSION

7. At a minimum the Commission should adopt as part of its revised pay telephone rules the interim rate cap of \$1.50 for an inmate’s local collect call from a confinement facility. However, application of that single rate to all confinement facilities in the State of Tennessee ignores

genuine differences between smaller county and municipal jails and larger state and federal facilities. For the reasons outlined above, the Commission's failure to take into account those real distinctions could impact the services available to detainees and inmates in the smaller jails. Therefore, the Commission should set a rate cap of \$2.50 for local collect calls from those facilities. Finally, whatever rate caps are set should be subject to periodic review (e.g., every two years) or be subject to an annual cost-of-living-based adjustment.

Respectfully Submitted,

EVERCOM SYSTEMS, INC.

By: 

Paul C. Besozzi
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2550 M Street, N.W.
Washington, DC 20037
Its Attorney

Dated September 8, 2004

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